

the early planning stages of this proposal to locating sites which do not impact floodplains. See subpart G of part 1940 of this chapter for applicable environmental requirements.

(n) *LH loans to American Indians secured by trust or restricted land.* Loans to individuals will be secured by a mortgage on the leasehold interest held by the applicant. The leasehold interest must meet the conditions of 7 CFR part 3550. Loans to tribes or tribal corporations will be secured in accordance with §§ 1823.409 and 1823.414(a) of subpart N of part 1823 of this chapter (FmHA Instruction 442.11, paragraphs IX and XIV A).

(o) *Refinancing LH loans.* Each borrower must agree to refinance the unpaid balance of the LH loan at the request of FmHA or its successor agency under Public Law 103–354 whenever it appears to FmHA or its successor agency under Public Law 103–354 that the borrower is unable to obtain a loan from responsible cooperative or private credit sources at rates and terms which FmHA or its successor agency under Public Law 103–354 considers reasonable, and still rent the units to eligible occupants at rental rates within their payment ability. The refinancing of an LH loan must comply with the restrictions indicated in § 1944.176(d)(2) of this subpart. The provisions of subpart E of part 1965 of this chapter must be followed before the State Director or other designated official can approve or accept prepayment or refinancing of the FmHA or its successor agency under Public Law 103–354 loan.

(p) *Restrictive-use provisions for LH loans.* The acceptance of a farm labor housing loan will make the borrower subject to the restrictive-use provisions contained in exhibit A-1 of subpart E of part 1965 of this chapter.

(q) *Uniform Relocation Assistance and Real Property Acquisition Act of 1970.* Compliance with the requirements of this Act applies to public bodies and agencies which have the power of eminent domain and/or condemnation. It will be the responsibility of the applicant to provide assistance required for relocation of displaced persons from the site on which a LH project will be located. FmHA or its successor agency under Public Law 103–354 loan funds

may be increased to cover costs incurred in the relocation of displaced persons from the site over and above the appraised value of the property. Until national FmHA or its successor agency under Public Law 103–354 instructions are published the Department regulations found at part 21 of this chapter should be followed and the National Office should be consulted for guidance in developing an LH loan for a project affected by this Act. However, the following should be considered:

(1) Generally, sites which will involve relocation of displaced persons should not be considered if alternative sites are available.

(2) For the purpose of determining the appraisal value of the site to be acquired in respect to LH projects which involve relocation of displaced persons, the designated FmHA or its successor agency under Public Law 103–354 multiple family housing appraiser or such other agency designated appraiser shall be used.

[45 FR 47655, July 16, 1980, as amended at 46 FR 61990, Dec. 21, 1981; 48 FR 29121, June 24, 1983; 49 FR 3762, Jan. 30, 1984; 52 FR 19301, May 22, 1987; 55 FR 6244, Feb. 22, 1990; 57 FR 59904, Dec. 17, 1992; 58 FR 38923, July 21, 1993; 64 FR 24480, May 6, 1999; 67 FR 78328, Dec. 24, 2002]

§§ 1944.165–1944.167 [Reserved]

§ 1944.168 Security requirements.

(a) *General.* Each loan will be secured to adequately protect the financial interest of the Government in the loan during its repayment period. The amount of the loan may not exceed the value of the security for the loan as determined by an appraisal, less the unpaid principal balance, plus past due interest of any prior liens that will or will likely exist against the security after the loan is closed. If the State Director determines it necessary or advisable to encumber household furnishings purchased with loan funds, the State Director will, with the advice of OGC, issue appropriate instructions setting forth the manner in which household furnishings will be secured.

(b) *Loan to an organization or an association of farmers.* (1) A loan to an organization or association of farmers which can give a real estate mortgage will be secured by a mortgage on good

and marketable title to the real estate including the housing, the related facilities, and the site, subject to any exceptions that may be waived as provided in subpart B of part 1927 of this chapter.

(2) If a first mortgage cannot be obtained, a junior mortgage may be taken provided:

(i) The prior mortgage as affected by the State law does not contain such provisions for future advances, payment schedules, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters which may jeopardize FmHA or its successor agency under Public Law 103-354's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified waived, or subordinated.

(3) If it is impossible for an applicant which is a public or quasi-public organization to give a real estate mortgage, the security to be taken will be determined by the National Office upon the recommendation of the State Director. The State Director should consult OGC as to whether the proposed security is legally permissible

(4) In individual cases, additional security may be advisable to ensure that the loan objectives will be carried out. For example, to provide for more effective management and operation, one or more of the following types of security may be required.

(i) A mortgage on other real estate owned by the applicant.

(ii) A pledge, assignment, mortgage, or other security interest in income from the housing.

(iii) A cosigner on the promissory note, letter of credit, endorsements, assessments, user agreements, personal liability agreements, or membership subscription agreements.

(5) As a general policy, personal liability will be required of the members of an association of farmers.

(c) *Loan to an individual farmowner or family farm corporation or partnership.* For every loan to an individual farm owner or family farm corporation or partnership, a real estate mortgage will be taken on the farm, whenever practicable, in accordance with subpart B of part 1927 of this chapter. However,

if requested by the applicant, a mortgage may be taken on the units and at least enough land to clearly provide adequate security for the loan as determined by an appraisal. In such cases, the loan must meet the following conditions:

(1) If the tract to be mortgaged is covered by a prior lien which also applies to other land, the tract to be given as security must either:

(i) Be released from the prior lien or subordinated to permit a first lien for the LH loan, or

(ii) Provide adequate security for the entire prior lien debt and the LH loan and comply with 7 CFR part 3550.

(2) Personal liability will be required of all stockholders or partners.

[45 FR 47655, July 16, 1980, as amended at 46 FR 61990, Dec. 21, 1981; 56 FR 67482, Dec. 31, 1991; 67 FR 78328, Dec. 24, 2002]

§ 1944.169 Technical, legal, and other services.

(a) *Appraisals.* (1) An appraisal is required when real estate is taken as security. The appraisal must be made in accordance with the Uniform Standards of Professional Appraisal Practices (available in any Rural Development office).

(2) If the loan includes funds for purchasing household furnishings or equipment which will not become part of the real estate, a narrative type appraisal, identifying the items, will be prepared by the employee preparing the real estate appraisal. The value placed on such furnishings will be based on comparable selling prices in the area.

(b) *Architectural and engineering services.* Housing and related facilities will be planned and designed to meet the needs of the type of occupants who will likely occupy it. A written contract for architectural or engineering services will be required as outlined in subpart A of part 1924 of this chapter.

(c) *Construction and development policies—*(1) *Planning and construction.* Housing and related facilities will be planned in accordance with subpart A of part 1924 of this chapter and exhibit A-3 of this subpart. Construction and development will be performed in accordance with subpart A of part 1924 of this chapter.